

REMARKS

Claims 1-4, 6-9 and 12-26 are pending in the present Application. Claims 1, 25 and 26 have been amended, leaving Claims 1-4, 6-9 and 12-26 for consideration upon entry of the present Amendment.

Claims 1, 25 and 26 have been amended to use the transitional phrase "consisting of" and specifically recite the additive agents that can be part of the composition. Support for this amendment can at least be found in Paragraph [0038] as originally filed.

No new matter has been introduced by these amendments. Reconsideration and allowance of the claims are respectfully requested in view of the above amendments and the following remarks.

Claim Rejections Under 35 U.S.C. § 103(a)

Claims 1-4, 6-9 and 12-26 stand rejected under 35 U.S.C. § 103(a), as allegedly unpatentable over United States Patent No. 6,348,540 to Sugioka et al. (Sugioka) or European Patent No. 1 045 003 to Kugure et al. (Kugure), each independently in combination with European Patent No. 0 509 506 to Matsumura et al. (Matsumura). Applicants respectfully traverse these rejections.

With regard to the rejection over the combination of Sugioka and Masumura Applicants previously argued that the scope of the pending claims excluded the teachings of Sugioka due to the required presence of fillers in Sugioka. The Examiner has disagreed with this argument by indicating that the fillers of Sugioka would also serve as non-halogen flame retardants. Applicants disagree with this assertion, even in light of the patents cited by the Examiner. Regardless of agreement or disagreement on the issue of fillers and flame retardancy Applicants, in order to advance prosecution, have amended the claims to use the transitional phrase "consisting of". Thus the combination of Sugioka and Matsumara is clearly outside the scope of the amended claims and hence the pending claims are non-obvious.

Regarding the rejection of the pending claims in view of the combination of Kogure and Matsumura the Examiner has asserted that "one of ordinary skill in the art

would have found it *prima facie* obvious to determine a workable or even optimum range of polyphenylene ether content for composition” (Office action dated January 11, 2008, page 3). In support of this assertion the Examiner has cited In re Boesch “[D]iscovery of an optimum value of a result effective variable in a known process is ordinarily within the skill of the art”. Applicants respectfully point out that Kogure is directed to a composition useful in a casting process and hence the determination of a workable or optimum range of polyphenylene ether in a composition for a casting process could reasonably be considered *prima facie* obvious. However, here we are concerned with compositions for use in an injection molding or extrusion process and the teachings of Kogure are wholly inadequate to render the pending claims obvious. Casting requires that the composition be dissolved or suspended in a solvent. The suspension or solution is then cast onto a substrate and the solvent is evaporated to form a solid composition. In contrast the pending composition is useful in injection molding or extrusion. Such process are melt based and as a result a widely different group of process factors come into play – process factors which can affect the choice of components, amounts of components, and the ultimate physical properties of the composition. There is simply no expectation that a casting composition could be used successfully in a melt based process. Reconsideration and withdrawal of the foregoing rejections are respectfully requested.

It is believed that the foregoing amendments and remarks fully comply with the Office Action and that the claims herein should now be allowable to Applicants. Accordingly, reconsideration and withdrawal of the objection(s) and rejection(s) and allowance of the case are respectfully requested.

If there are any additional charges with respect to this Amendment or otherwise, please charge them to Deposit Account No. 50-1131.

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Respectfully submitted,

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